

February 26, 2021

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**VIA EMAIL:** [Chrischanda.Smith@gsa.gov](mailto:Chrischanda.Smith@gsa.gov)

Chrischanda S. Smith  
Branch Chief  
Construction Services Division, Center 3  
General Services Administration, Office of Acquisition

**Re: Principal: CAC-MOTIR Joint Venture, LLC**  
**Surety: North American Specialty Insurance Company**  
**Obligee: General Services Administration**  
**Bond: No. 2286058**  
**Project: 1800 F Street Collocation**

Dear Ms. Smith:

As you know, our firm represents North American Specialty Insurance Company (“NAS”) in connection with the above-referenced Project. As surety, NAS issued a Miller Act payment and performance bond on behalf of CAC-MOTIR Joint Venture, LLC (“the Joint Venture”) for the Project. We appreciate you keeping us informed about the status of the Project over the last several months.

As we previously raised by letter of June 2, 2020, NAS maintains that it has defenses under its bond in connection with the contract formation and the administration of the payment process during the Project. In its April 14, 2020 letter to the Small Business Administration, the Joint Venture alleges that it was directed by GSA to reduce its bid for the Project from \$5.6 million to under \$4 million in order to satisfy the 8(a) sole source threshold. The Joint Venture further alleges that it was assured by GSA that it would be appropriately compensated through change orders – a process that never materialized. To the extent the facts asserted by the Joint Venture prove true, NAS’s performance bond obligations may be discharged based on the failure to disclose this circumstance to the surety. Also, the release of funds on what came to be a fast-track design build project, including the release of retainage when there were insufficient funds to complete the work, gives rise to an impairment of collateral defense.

Nevertheless, the Joint Venture has requested that NAS provide funding to facilitate Project completion. In considering this request, NAS requests a meeting with GSA toward reaching an agreement upon which NAS would be willing to begin to provide funding in support of the completion effort. It is our understanding that this completion effort includes change order work issued by GSA, such as alteration to the wood louvers and sprinklers.

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NAS's willingness to provide funding to support the Joint Venture's completion effort and reduce the potential damages for all concerned parties is greatly impacted by its ability to reach an agreement with GSA that preserves its rights in this circumstance. By this understanding, GSA would acknowledge that funds expended would be allocated to the penal sum of the performance bond. Also, given the many hurdles already overcome, including, most recently, COVID and the ongoing performance of changed work, liquidated damages would be foregone should the Joint Venture meet negotiated completion targets. Finally, the agreement would allow NAS to assert a right to recover funds advanced to the extent that its defenses are found meritorious in a subsequent negotiation or ADR proceeding.

Please let us know your availability to discuss this matter further. NAS reserves all rights, claims, and defenses in connection with this matter and waives none.

Very truly yours,

**WATT, TIEDER, HOFFAR & FITZGERALD, LLP**

**(b) (6)**

Christopher J. Brasco

cc: Marcelo Virgili, North American Specialty Insurance Company, via email  
Tillman Finley, Esq., via email